

AMENDED IN ASSEMBLY APRIL 7, 2016
AMENDED IN ASSEMBLY FEBRUARY 8, 2016
AMENDED IN ASSEMBLY JULY 13, 2015
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

Assembly Constitutional Amendment

No. 6

Introduced by Assembly Members Brown and Salas

April 20, 2015

Assembly Constitutional Amendment No. 6—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 3 of Article XIII thereof, and by amending Section 2 of Article XIII A thereof, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

ACA 6, as amended, Brown. Property taxation: exemptions: fruit and nut trees: base year value transfers: persons with a severely disabled child.

(1) The California Constitution requires that all property be taxed unless otherwise provided by the California Constitution or the laws of the United States. The California Constitution exempts, among other things, fruit and nut trees for 4 years after the season in which they were planted in orchard form.

This measure would exempt from property taxation pistachio trees for 6 years after the season in which they were planted in orchard form.

(2) The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, “full cash value” is defined as the assessor’s valuation of real property as shown on the 1975–76 tax bill under “full cash value” or, thereafter, the appraised value of that real property when purchased,

newly constructed, or a change in ownership has occurred. The California Constitution authorizes the Legislature to provide that persons over the age of 55 and persons who are severely disabled may transfer the base year value, as defined, of property to a replacement dwelling.

This measure would expand the authorization for base year value transfers provided to persons over the age of 55 years to include each individual member of a married couple who is over the age of 55 years, but only with respect to a replacement property purchased or newly constructed on or after the effective date of this measure and only with respect to an individual member of a married couple who has not transferred a base year value prior to that same effective date.

This measure would additionally authorize the Legislature to provide for transfer of base year value of property to a replacement dwelling for persons who ~~have~~ *are the parent or legal guardian of a severely disabled child and reside with that child.*

~~Existing property tax law implementing the constitutional authorization described above authorizes taxpayers to transfer the base year value of property to a replacement dwelling if certain conditions are met, including, among others, that the claimant has not previously been granted, as a claimant, this property tax relief. For purposes of applying this condition, existing property tax law requires the spouse of a claimant previously granted this property tax relief, where the spouse is a record owner of the replacement dwelling, to also be considered a claimant previously granted this property tax relief.~~

~~This measure would, for purposes of applying this condition of eligibility, exclude from the term “claimant” a spouse of a person who previously claimed and was granted this property tax relief, where that spouse is also a record owner of the replacement dwelling. This measure would apply these provisions only to persons who file a claim on or after the effective date of this measure.~~

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

- 1 *Resolved by the Assembly, the Senate concurring,* That the
- 2 Legislature of the State of California at its 2015–16 Regular
- 3 Session commencing on the first day of December 2014, two-thirds
- 4 of the membership of each house concurring, hereby proposes to
- 5 the people of the State of California, that the Constitution of the
- 6 State be amended as follows:

1 First— That Section 3 of Article XIII thereof is amended to
2 read:

3 SEC. 3. The following are exempt from property taxation:

4 (a) Property owned by the State.

5 (b) Property owned by a local government, except as otherwise
6 provided in Section 11(a).

7 (c) Bonds issued by the State or a local government in the State.

8 (d) Property used for libraries and museums that are free and
9 open to the public and property used exclusively for public schools,
10 community colleges, state colleges, and state universities.

11 (e) Buildings, land, equipment, and securities used exclusively
12 for educational purposes by a nonprofit institution of higher
13 education.

14 (f) Buildings, land on which they are situated, and equipment
15 used exclusively for religious worship.

16 (g) Property used or held exclusively for the permanent deposit
17 of human dead or for the care and maintenance of the property or
18 the dead, except when used or held for profit. This property is also
19 exempt from special assessment.

20 (h) Growing crops.

21 (i) (1) Fruit and nut trees until four years after the season in
22 which they were planted in orchard form and grape vines until
23 three years after the season in which they were planted in vineyard
24 form.

25 (2) Notwithstanding paragraph (1), pistachio trees until six years
26 after the season in which they were planted in orchard form.

27 (j) Immature forest trees planted on lands not previously bearing
28 merchantable timber or planted or of natural growth on lands from
29 which the merchantable original growth timber stand to the extent
30 of 70 percent of all trees over 16 inches in diameter has been
31 removed. Forest trees or timber shall be considered mature at such
32 time after 40 years from the time of planting or removal of the
33 original timber when so declared by a majority vote of a board
34 consisting of a representative from the State Board of Forestry, a
35 representative from the State Board of Equalization, and the
36 assessor of the county in which the trees are located.

37 The Legislature may supersede the foregoing provisions with
38 an alternative system or systems of taxing or exempting forest
39 trees or timber, including a taxation system not based on property
40 valuation. Any alternative system or systems shall provide for

1 exemption of unharvested immature trees, shall encourage the
2 continued use of timberlands for the production of trees for timber
3 products, and shall provide for restricting the use of timberland to
4 the production of timber products and compatible uses with
5 provisions for taxation of timberland based on the restrictions.
6 Nothing in this paragraph shall be construed to exclude timberland
7 from the provisions of Section 8 of this article.

8 (k) Seven thousand dollars (\$7,000) of the full value of a
9 dwelling, as defined by the Legislature, when occupied by an
10 owner as his principal residence, unless the dwelling is receiving
11 another real property exemption. The Legislature may increase
12 this exemption and may deny it if the owner received state or local
13 aid to pay taxes either in whole or in part, and either directly or
14 indirectly, on the dwelling.

15 No increase in this exemption above the amount of seven
16 thousand dollars (\$7,000) shall be effective for any fiscal year
17 unless the Legislature increases the rate of state taxes in an amount
18 sufficient to provide the subventions required by Section 25.

19 If the Legislature increases the homeowners' property tax
20 exemption, it shall provide increases in benefits to qualified renters,
21 as defined by law, comparable to the average increase in benefits
22 to homeowners, as calculated by the Legislature.

23 (l) Vessels of more than 50 tons burden in this State and engaged
24 in the transportation of freight or passengers.

25 (m) Household furnishings and personal effects not held or used
26 in connection with a trade, profession, or business.

27 (n) Any debt secured by land.

28 (o) Property in the amount of one thousand dollars (\$1,000) of
29 a claimant who—

30 (1) is serving in or has served in and has been discharged under
31 honorable conditions from service in the United States Army,
32 Navy, Air Force, Marine Corps, Coast Guard, or Revenue Marine
33 (Revenue Cutter) Service; and—

34 (2) served either

35 (i) in time of war, or

36 (ii) in time of peace in a campaign or expedition for which a
37 medal has been issued by Congress, or

38 (iii) in time of peace and because of a service-connected
39 disability was released from active duty; and—

40 (3) resides in the State on the current lien date.

1 An unmarried person who owns property valued at five thousand
2 dollars (\$5,000) or more, or a married person, who, together with
3 the spouse, owns property valued at ten thousand dollars (\$10,000)
4 or more, is ineligible for this exemption.

5 If the claimant is married and does not own property eligible for
6 the full amount of the exemption, property of the spouse shall be
7 eligible for the unused balance of the exemption.

8 (p) Property in the amount of one thousand dollars (\$1,000) of
9 a claimant who—

10 (1) is the unmarried spouse of a deceased veteran who met the
11 service requirement stated in paragraphs (1) and (2) of subsection
12 3(o), and

13 (2) does not own property in excess of ten thousand dollars
14 (\$10,000), and

15 (3) is a resident of the State on the current lien date.

16 (q) Property in the amount of one thousand dollars (\$1,000) of
17 a claimant who—

18 (1) is the parent of a deceased veteran who met the service
19 requirement stated in paragraphs (1) and (2) of subsection 3(o),
20 and

21 (2) receives a pension because of the veteran's service, and

22 (3) is a resident of the State on the current lien date.

23 Either parent of a deceased veteran may claim this exemption.

24 An unmarried person who owns property valued at five thousand
25 dollars (\$5,000) or more, or a married person, who, together with
26 the spouse, owns property valued at ten thousand dollars (\$10,000)
27 or more, is ineligible for this exemption.

28 (r) No individual residing in the State on the effective date of
29 this amendment who would have been eligible for the exemption
30 provided by the previous Section 1 $\frac{1}{4}$ of this article had it not been
31 repealed shall lose eligibility for the exemption as a result of this
32 amendment.

33 Second— That Section 2 of Article XIII A thereof is amended
34 to read:

35 SEC. 2. (a) (1) The "full cash value" means the county
36 assessor's valuation of real property as shown on the 1975–76 tax
37 bill under "full cash value" or, thereafter, the appraised value of
38 real property when purchased, newly constructed, or a change in
39 ownership has occurred after the 1975 assessment. All real property
40 not already assessed up to the 1975–76 full cash value may be

1 reassessed to reflect that valuation. For purposes of this section,
2 “newly constructed” does not include real property that is
3 reconstructed after a disaster, as declared by the Governor, where
4 the fair market value of the real property, as reconstructed, is
5 comparable to its fair market value prior to the disaster. For
6 purposes of this section, the term “newly constructed” does not
7 include that portion of an existing structure that consists of the
8 construction or reconstruction of seismic retrofitting components,
9 as defined by the Legislature.

10 (2) (A) However, the Legislature may provide that, under
11 appropriate circumstances and pursuant to definitions and
12 procedures established by the Legislature, any person over the age
13 of 55 years who resides in property that is eligible for the
14 homeowner’s exemption under subdivision (k) of Section 3 of
15 Article XIII and any implementing legislation may transfer the
16 base year value of the property entitled to exemption, with the
17 adjustments authorized by subdivision (b), to any replacement
18 dwelling of equal or lesser value located within the same county
19 and purchased or newly constructed by that person as his or her
20 principal residence within two years of the sale of the original
21 property. This paragraph applies to any replacement dwelling that
22 was purchased or newly constructed on or after November 5, 1986.

23 (B) For purposes of this section, all of the following shall apply:

24 (i) “Any person over the age of 55 years” includes a married
25 couple one member of which is over the age of 55 years.

26 (ii) *“Any person over the age of 55 years” includes each*
27 *individual member of a married couple who is over the age of 55*
28 *years, but only with respect to a replacement property purchased*
29 *or newly constructed on or after the effective date of this clause*
30 *and only with respect to an individual member of a married couple*
31 *who has not transferred a base year value prior to that same*
32 *effective date.*

33 ~~(ii)~~

34 (iii) “Replacement dwelling” means a building, structure, or
35 other shelter constituting a place of abode, whether real property
36 or personal property, and any land on which it may be situated.

37 ~~(iii)~~

38 (iv) A two-dwelling unit shall be considered as two separate
39 single-family dwellings.

1 ~~(iv) For purposes of Section 69.5 of the Revenue and Taxation~~
2 ~~Code or any successor statute, a person shall not be deemed to~~
3 ~~have previously claimed and been granted the property tax relief~~
4 ~~authorized by this subdivision by reason of being or having been~~
5 ~~the spouse of a person who previously claimed and was granted~~
6 ~~that property tax relief, and also being or having been a record~~
7 ~~owner of the replacement dwelling. This clause applies only to~~
8 ~~persons who file a claim for the property tax relief authorized by~~
9 ~~this subdivision on or after the effective date of this clause.~~

10 (3) In addition, the Legislature may authorize each county board
11 of supervisors, after consultation with the local affected agencies
12 within the county's boundaries, to adopt an ordinance making the
13 provisions of this subdivision relating to transfer of base year value
14 also applicable to situations in which the replacement dwellings
15 are located in that county and the original properties are located
16 in another county within this State. For purposes of this paragraph,
17 "local affected agency" means any city, special district, school
18 district, or community college district that receives an annual
19 property tax revenue allocation. This paragraph applies to any
20 replacement dwelling that was purchased or newly constructed on
21 or after the date the county adopted the provisions of this
22 subdivision relating to transfer of base year value, but does not
23 apply to any replacement dwelling that was purchased or newly
24 constructed before November 9, 1988.

25 (4) The Legislature may extend the provisions of this subdivision
26 relating to the transfer of base year values from original properties
27 to replacement dwellings of homeowners over the age of 55 years
28 to either or both of the following:

29 (A) Severely disabled homeowners, but only with respect to
30 those replacement dwellings purchased or newly constructed on
31 or after June 6, 1990.

32 (B) Homeowners ~~with~~ *who are the parent or legal guardian of*
33 *a severely disabled child and reside with that child*, but only with
34 respect to those replacement dwellings purchased or newly
35 constructed on or after the effective date of this subparagraph.

36 (b) The full cash value base may reflect from year to year the
37 inflationary rate not to exceed 2 percent for any given year or
38 reduction as shown in the consumer price index or comparable
39 data for the area under taxing jurisdiction, or may be reduced to

1 reflect substantial damage, destruction, or other factors causing a
2 decline in value.

3 (c) For purposes of subdivision (a), the Legislature may provide
4 that the term “newly constructed” does not include any of the
5 following:

6 (1) The construction or addition of any active solar energy
7 system.

8 (2) The construction or installation of any fire sprinkler system,
9 other fire extinguishing system, fire detection system, or fire-related
10 egress improvement, as defined by the Legislature, that is
11 constructed or installed after the effective date of this paragraph.

12 (3) The construction, installation, or modification on or after
13 the effective date of this paragraph of any portion or structural
14 component of a single- or multiple-family dwelling that is eligible
15 for the homeowner’s exemption if the construction, installation,
16 or modification is for the purpose of making the dwelling more
17 accessible to a severely disabled person.

18 (4) The construction, installation, removal, or modification on
19 or after the effective date of this paragraph of any portion or
20 structural component of an existing building or structure if the
21 construction, installation, removal, or modification is for the
22 purpose of making the building more accessible to, or more usable
23 by, a disabled person.

24 (d) For purposes of this section, the term “change in ownership”
25 does not include the acquisition of real property as a replacement
26 for comparable property if the person acquiring the real property
27 has been displaced from the property replaced by eminent domain
28 proceedings, by acquisition by a public entity, or governmental
29 action that has resulted in a judgment of inverse condemnation.
30 The real property acquired shall be deemed comparable to the
31 property replaced if it is similar in size, utility, and function, or if
32 it conforms to state regulations defined by the Legislature
33 governing the relocation of persons displaced by governmental
34 actions. This subdivision applies to any property acquired after
35 March 1, 1975, but affects only those assessments of that property
36 that occur after the provisions of this subdivision take effect.

37 (e) (1) Notwithstanding any other provision of this section, the
38 Legislature shall provide that the base year value of property that
39 is substantially damaged or destroyed by a disaster, as declared
40 by the Governor, may be transferred to comparable property within

1 the same county that is acquired or newly constructed as a
2 replacement for the substantially damaged or destroyed property.

3 (2) Except as provided in paragraph (3), this subdivision applies
4 to any comparable replacement property acquired or newly
5 constructed on or after July 1, 1985, and to the determination of
6 base year values for the 1985–86 fiscal year and fiscal years
7 thereafter.

8 (3) In addition to the transfer of base year value of property
9 within the same county that is permitted by paragraph (1), the
10 Legislature may authorize each county board of supervisors to
11 adopt, after consultation with affected local agencies within the
12 county, an ordinance allowing the transfer of the base year value
13 of property that is located within another county in the State and
14 is substantially damaged or destroyed by a disaster, as declared
15 by the Governor, to comparable replacement property of equal or
16 lesser value that is located within the adopting county and is
17 acquired or newly constructed within three years of the substantial
18 damage or destruction of the original property as a replacement
19 for that property. The scope and amount of the benefit provided
20 to a property owner by the transfer of base year value of property
21 pursuant to this paragraph shall not exceed the scope and amount
22 of the benefit provided to a property owner by the transfer of base
23 year value of property pursuant to subdivision (a). For purposes
24 of this paragraph, “affected local agency” means any city, special
25 district, school district, or community college district that receives
26 an annual allocation of ad valorem property tax revenues. This
27 paragraph applies to any comparable replacement property that is
28 acquired or newly constructed as a replacement for property
29 substantially damaged or destroyed by a disaster, as declared by
30 the Governor, occurring on or after October 20, 1991, and to the
31 determination of base year values for the 1991–92 fiscal year and
32 fiscal years thereafter.

33 (f) For the purposes of subdivision (e):

34 (1) Property is substantially damaged or destroyed if it sustains
35 physical damage amounting to more than 50 percent of its value
36 immediately before the disaster. Damage includes a diminution in
37 the value of property as a result of restricted access caused by the
38 disaster.

39 (2) Replacement property is comparable to the property
40 substantially damaged or destroyed if it is similar in size, utility,

1 and function to the property that it replaces, and if the fair market
2 value of the acquired property is comparable to the fair market
3 value of the replaced property prior to the disaster.

4 (g) For purposes of subdivision (a), the terms “purchased” and
5 “change in ownership” do not include the purchase or transfer of
6 real property between spouses since March 1, 1975, including, but
7 not limited to, all of the following:

8 (1) Transfers to a trustee for the beneficial use of a spouse, or
9 the surviving spouse of a deceased transferor, or by a trustee of
10 such a trust to the spouse of the trustor.

11 (2) Transfers to a spouse that take effect upon the death of a
12 spouse.

13 (3) Transfers to a spouse or former spouse in connection with
14 a property settlement agreement or decree of dissolution of a
15 marriage or legal separation.

16 (4) The creation, transfer, or termination, solely between
17 spouses, of any coowner’s interest.

18 (5) The distribution of a legal entity’s property to a spouse or
19 former spouse in exchange for the interest of the spouse in the
20 legal entity in connection with a property settlement agreement or
21 a decree of dissolution of a marriage or legal separation.

22 (h) (1) For purposes of subdivision (a), the terms “purchased”
23 and “change in ownership” do not include the purchase or transfer
24 of the principal residence of the transferor in the case of a purchase
25 or transfer between parents and their children, as defined by the
26 Legislature, and the purchase or transfer of the first one million
27 dollars (\$1,000,000) of the full cash value of all other real property
28 between parents and their children, as defined by the Legislature.
29 This subdivision applies to both voluntary transfers and transfers
30 resulting from a court order or judicial decree.

31 (2) (A) Subject to subparagraph (B), commencing with
32 purchases or transfers that occur on or after the date upon which
33 the measure adding this paragraph becomes effective, the exclusion
34 established by paragraph (1) also applies to a purchase or transfer
35 of real property between grandparents and their grandchild or
36 grandchildren, as defined by the Legislature, that otherwise
37 qualifies under paragraph (1), if all of the parents of that grandchild
38 or those grandchildren, who qualify as the children of the
39 grandparents, are deceased as of the date of the purchase or transfer.

1 (B) A purchase or transfer of a principal residence shall not be
2 excluded pursuant to subparagraph (A) if the transferee grandchild
3 or grandchildren also received a principal residence, or interest
4 therein, through another purchase or transfer that was excludable
5 pursuant to paragraph (1). The full cash value of any real property,
6 other than a principal residence, that was transferred to the
7 grandchild or grandchildren pursuant to a purchase or transfer that
8 was excludable pursuant to paragraph (1), and the full cash value
9 of a principal residence that fails to qualify for exclusion as a result
10 of the preceding sentence, shall be included in applying, for
11 purposes of subparagraph (A), the one-million-dollar (\$1,000,000)
12 full cash value limit specified in paragraph (1).

13 (i) (1) Notwithstanding any other provision of this section, the
14 Legislature shall provide with respect to a qualified contaminated
15 property, as defined in paragraph (2), that either, but not both, of
16 the following apply:

17 (A) (i) Subject to the limitation of clause (ii), the base year
18 value of the qualified contaminated property, as adjusted as
19 authorized by subdivision (b), may be transferred to a replacement
20 property that is acquired or newly constructed as a replacement
21 for the qualified contaminated property, if the replacement real
22 property has a fair market value that is equal to or less than the
23 fair market value of the qualified contaminated property if that
24 property were not contaminated and, except as otherwise provided
25 by this clause, is located within the same county. The base year
26 value of the qualified contaminated property may be transferred
27 to a replacement real property located within another county if the
28 board of supervisors of that other county has, after consultation
29 with the affected local agencies within that county, adopted a
30 resolution authorizing an intercounty transfer of base year value
31 as so described.

32 (ii) This subparagraph applies only to replacement property that
33 is acquired or newly constructed within five years after ownership
34 in the qualified contaminated property is sold or otherwise
35 transferred.

36 (B) In the case in which the remediation of the environmental
37 problems on the qualified contaminated property requires the
38 destruction of, or results in substantial damage to, a structure
39 located on that property, the term “new construction” does not
40 include the repair of a substantially damaged structure, or the

1 construction of a structure replacing a destroyed structure on the
2 qualified contaminated property, performed after the remediation
3 of the environmental problems on that property, provided that the
4 repaired or replacement structure is similar in size, utility, and
5 function to the original structure.

6 (2) For purposes of this subdivision, “qualified contaminated
7 property” means residential or nonresidential real property that is
8 all of the following:

9 (A) In the case of residential real property, rendered
10 uninhabitable, and in the case of nonresidential real property,
11 rendered unusable, as the result of either environmental problems,
12 in the nature of and including, but not limited to, the presence of
13 toxic or hazardous materials, or the remediation of those
14 environmental problems, except where the existence of the
15 environmental problems was known to the owner, or to a related
16 individual or entity as described in paragraph (3), at the time the
17 real property was acquired or constructed. For purposes of this
18 subparagraph, residential real property is “uninhabitable” if that
19 property, as a result of health hazards caused by or associated with
20 the environmental problems, is unfit for human habitation, and
21 nonresidential real property is “unusable” if that property, as a
22 result of health hazards caused by or associated with the
23 environmental problems, is unhealthy and unsuitable for
24 occupancy.

25 (B) Located on a site that has been designated as a toxic or
26 environmental hazard or as an environmental cleanup site by an
27 agency of the State of California or the federal government.

28 (C) Real property that contains a structure or structures thereon
29 prior to the completion of environmental cleanup activities, and
30 that structure or structures are substantially damaged or destroyed
31 as a result of those environmental cleanup activities.

32 (D) Stipulated by the lead governmental agency, with respect
33 to the environmental problems or environmental cleanup of the
34 real property, not to have been rendered uninhabitable or unusable,
35 as applicable, as described in subparagraph (A), by any act or
36 omission in which an owner of that real property participated or
37 acquiesced.

38 (3) It shall be rebuttably presumed that an owner of the real
39 property participated or acquiesced in any act or omission that
40 rendered the real property uninhabitable or unusable, as applicable,

1 if that owner is related to any individual or entity that committed
2 that act or omission in any of the following ways:

3 (A) Is a spouse, parent, child, grandparent, grandchild, or sibling
4 of that individual.

5 (B) Is a corporate parent, subsidiary, or affiliate of that entity.

6 (C) Is an owner of, or has control of, that entity.

7 (D) Is owned or controlled by that entity.

8 If this presumption is not overcome, the owner shall not receive
9 the relief provided for in subparagraph (A) or (B) of paragraph
10 (1). The presumption may be overcome by presentation of
11 satisfactory evidence to the assessor, who shall not be bound by
12 the findings of the lead governmental agency in determining
13 whether the presumption has been overcome.

14 (4) This subdivision applies only to replacement property that
15 is acquired or constructed on or after January 1, 1995, and to
16 property repairs performed on or after that date.

17 (j) Unless specifically provided otherwise, amendments to this
18 section adopted prior to November 1, 1988, are effective for
19 changes in ownership that occur, and new construction that is
20 completed, after the effective date of the amendment. Unless
21 specifically provided otherwise, amendments to this section
22 adopted after November 1, 1988, are effective for changes in
23 ownership that occur, and new construction that is completed, on
24 or after the effective date of the amendment.